

*S/S AR 600-18, 19 Nov 73*

AR 600-4  
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CHANGE

No. 1

HEADQUARTERS  
DEPARTMENT OF THE ARMY  
WASHINGTON, D.C., 28 April 1969

**PERSONNEL—GENERAL**

**FAIR HOUSING ENFORCEMENT PROGRAM OF THE  
DEPARTMENT OF DEFENSE**

*Effective 15 June 1969*

AR 600-4, 30 October 1968, is changed as follows:

1. This change adds a subparagraph which prescribes a form to be used for making complaints to HUD of discrimination under the Fair Housing Law and a subparagraph which provides information as to where this form may be obtained.
2. Material which has been added or modified is indicated by a star.
3. Remove pages 1 and 2 and insert revised pages 1 and 2.
4. File this change sheet in front of the publication for reference purposes.

The proponent agency of this regulation is the Office of the Deputy Chief of Staff for Personnel. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications) to Deputy Chief of Staff for Personnel, ATTN: DAHC, Department of the Army, Washington, D.C. 20310.

By Order of the Secretary of the Army:

Official:

KENNETH G. WICKHAM,  
Major General, United States Army,  
The Adjutant General.

W. C. WESTMORELAND,  
General, United States Army,  
Chief of Staff.

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AR 600-4

ARMY REGULATION

No. 600-4

HEADQUARTERS  
DEPARTMENT OF THE ARMY  
WASHINGTON, D.C., 30 October 1968

PERSONNEL—GENERAL

FAIR HOUSING ENFORCEMENT PROGRAM OF THE DEPARTMENT  
OF DEFENSE

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**1. Purpose.** This regulation is in implementation of DOD Instruction. No. 1338.12, dated 8 August 1968, providing command assistance to military personnel and civilian employees of the Department of the Army to secure their rights under the provisions of Title VIII or Title IX of the Civil Rights Act of 1968 (Public Law 90-284, 62 Stat. 696) or 42 U.S.C. 1982 (R.S. Sec. 1978) which require fair housing practices throughout the nation. For extracts of these Titles, see appendix A. Its purpose is to promote Department of Defense and Department of the Army policy of fostering equal treatment for military and civilian personnel by prescribing policies and procedures for processing complaints to the Department of Housing and Urban Development or to the Department of Justice by military and civilian personnel electing to utilize command assistance in forwarding such complaints.

**2. Applicability.** This regulation applies to military personnel of the Active Army and civilian employees at Department of the Army installations in the United States, its territories and possessions, and the District of Columbia.

**3. Definitions.** For the purpose of this regulation—

a. "Unlawful discrimination" means an act in violation of Title VIII or Title IX, Civil Rights Act of 1968 or 42 U.S.C. 1982.

b. "Title" means a title of the Civil Rights Act of 1968.

c. "Complainant" means a military member or civilian employee of the Department of the Army who submits a complaint of unlawful discrimination.

d. "HUD" means the Secretary of Housing and Urban Development.

e. "Commander" means the military or civilian head of any installation, organization or agency in the United States, its territories and possessions, and the District of Columbia, under the control of the Department of the Army.

f. Other terms in this regulation have the same meaning as those in Public Law 90-284, Civil Rights Act of 1968 (62 Stat. 696).

**4. Information concerning legal rights.** Every commander will—

a. Develop an information program to apprise military personnel and civilian employees of the

Department of the Army of the rights and remedies provided by 42 U.S.C. 1982 (as interpreted by the Supreme Court in *Jones v. Mayer*, 88 S. Ct. 2186 (1968), or in any subsequent decisions), and by Titles VIII and IX of the Civil Rights Act of 1968.

b. Insure that an office serving the command is available to advise personnel, military and civilian, concerning—

(1) The application of the Titles and 42 USC 1982 in specific situations.

(2) The procedures set forth in this regulation and,

(3) The right of individuals to pursue their remedies through civilian channels without recourse to the procedures prescribed herein, including the right to—

(a) Make a complaint directly to HUD or to the Department of Justice; and

(b) Bring a private civil action in any appropriate local, state, or Federal Court.

★5. **Information necessary for filing complaints through command channels.** The provisions of this regulation and the right to submit a complaint directly to HUD must be explained to the complainant.

a. *Format.* A complaint to HUD will be made on HUD Form 903 and will—

(1) Be executed in at least four copies.

(2) Be signed by the complainant and notarized.

(3) Be dated.

b. *Filing.* The original and at least three copies of a complaint will be filed with the office designated by the commander.

c. *Command responsibility.* Commanders should make themselves aware of the effective dates of the various provisions of the Civil Rights Act of 1968 and of the coverage limitations of the Titles so that complaints to HUD are not made in cases where the law is clearly not applicable. However, where there is a possibility of coverage, the complaint should be forwarded.

d. *Preliminary inquiries.* Upon the filing of a complaint, officials designated by the commander of the installation concerned will make a preliminary inquiry. The inquiry may be informal in nature, but will be sufficiently detailed to indicate whether unlawful discrimination exists.

e. *Voluntary assurances.* If the preliminary in-

quiry supports the complainant's charge of unlawful discrimination, the commander or his representative will seek appropriate relief for the complainant and written assurance from the owner or operator involved that future practices will provide for nondiscriminatory treatment of military personnel, civilian employees and their dependents.

f. *Action following assurances.* If satisfactory assurances with respect to future practices are obtained, the commander will promptly notify the complainant and forward a report through channels to the Deputy Chief of Staff for Personnel, ATTN: DAHC, Department of the Army, Washington, D.C. 20310, for transmission to the Assistant Secretary of Defense (Manpower and Reserve Affairs). The report will briefly summarize the practices giving rise to the complaint, the commander's efforts to obtain assurances concerning future practices, and the terms of the assurances provided.

g. *Action if assurance refused.* If the commander is unable to obtain a satisfactory assurance, including appropriate relief for the complainant, he will complete the procedures prescribed in paragraphs 6 through 12.

h. *Where forms may be obtained.* Copies of HUD Form 903 are available from the nearest regional office of HUD or by writing Fair Housing, Housing and Urban Development, Washington, D.C. 20410.

6. **Inquiry.** a. *Scope.* In every case not resolved by assurances, there will be a further inquiry in accordance with b through d below. (Normally, this inquiry will be made by the person who made the preliminary inquiry.)

b. *Evidence.*

(1) A statement will be obtained from every person signing the complaint. Additional statements may be—

(a) Solicited from other military and civilian personnel, and their dependents, having actual knowledge of the practices of the facility concerned; and

(b) Received but not solicited from any other person who volunteers to provide information. (The complainant may solicit statements from any source.)

(2) In no instance will authority, implicit or explicit, to require the giving of such additional statements be asserted or suggested.

*c. Legal Guidance.* The person conducting the inquiry may be afforded advice by a legal officer so that all reasonably available evidence is adduced relating to every proposition which must be established to obtain relief under the appropriate Title. The inquiry will include consideration of evidence bearing upon motive or refuting or supporting defenses based on the assertion that the facility involved is not subject to the Title.

*d. Report of Inquiry.* A report of inquiry will be prepared to include a summary of evidence indicating the source of factual statements. Copies of each statement obtained during the inquiry will be appended to the factual summary. The summary of evidence will include known factors regarding the credibility of witnesses and any other information which will facilitate a review of the evidence obtained.

#### **7. Statement by Legal Officer.**

*a.* The completed report will be informally reviewed for content and completeness by a legal officer. (Where possible, this review will be performed by a legal officer other than the one who may have provided legal guidance to the person conducting the inquiry.) A statement that such a review was conducted, signed by the officer performing the review, will be made a part of the records forwarded to HUD.

*b.* The statement will include any necessary explanatory remarks, including comments concerning the unavailability to installation sources of certain evidence, if applicable; and it will also report information known to the command concerning pending complaints, if any, brought by private parties with respect to the same or competing or closely related dwellings.

**8. Commander's Memorandum.** Following the completion of the legal review, and of efforts to secure voluntary assurances, the commander will add a memorandum analyzing the following factors:

*a.* Impact of discrimination in the facility involved upon servicemen, civilian employees, and their dependents.

*b.* Efforts to obtain voluntary assurances, and their results.

*c.* Any other consideration which the commander considers relevant.

**9. Forwarding of Report of Inquiry.** The report of inquiry, the legal officer's statement, the

commander's memorandum and the complaint will be attached to a chronology sheet, the format of which is shown in appendix B. The original and two copies of these documents will be dispatched directly to the Deputy Chief of Staff for Personnel, ATTN: DAHC, Department of the Army, Washington, D.C. 20310, who will review the report and forward copies, with such comments as may be appropriate, to HUD and the Assistant Secretary of Defense (Manpower and Reserve Affairs).

#### **10. Time to complete procedures.**

*a.* The preliminary inquiry, efforts to obtain voluntary assurances, and any further processing at installation level required by this regulation will be completed within 20 days following the filing of the complaint.

*b.* The time allowed in *a* above may be extended ten additional days by a commander if he determines that further efforts to obtain voluntary assurances are likely to be successful during such additional period. Notice of any such extension will be provided the complainant.

*c.* In the event that an installation receives such a large number of complaints within such a short period of time that it is unable to process them within the times prescribed above, the installation may request a specific extension of time. Any such request will be made directly to the Deputy Chief of Staff for Personnel, ATTN: DAHC, Department of the Army, Washington, D.C. 20310.

*d.* A complaint, to be timely, must be filed with HUD within one-hundred and eighty days after the occurrence of the alleged discriminatory housing practice on which it is based. A complaint will be forwarded prior to the completion of the preliminary inquiry and subsequent procedures if such action becomes necessary to assure its filing within the one-hundred and eighty day period.

**11. Completion of action.** Action on a complaint may be regarded as completed at the installation level only upon one of the following conditions:

*a.* The obtaining of satisfactory assurances with respect to the ending of the discrimination alleged in the complaint or revealed in the course of inquiry, and notice thereof to the complainant.

*b.* The dispatch of the report of inquiry and all attachments in accordance with paragraph 9.

*c.* A written request by all personnel signing the original complaint that the same be withdrawn.

**12. Related Complaints.**

a. Whenever the commander of an installation receives more than one complaint alleging discrimination in the same dwelling, development, or project, they may be consolidated for the purposes of the inquiry, the legal review, and the commander's memorandum. The single consolidated record will be forwarded as prescribed in paragraph 9.

b. Whenever the commander of an installation receives a complaint alleging discrimination in a facility with respect to which a completed complaint action has been forwarded, a summary of the facts relating to such subsequent complaint will be forwarded as prescribed in paragraph 9, with brief comments indicating the extent to which the new complaint, and information developed with respect to it, affect the action previously forwarded.

**13. Associated Actions.** Any complaint which involves charges that several different parties have discriminated or which involves discrimination in dwellings containing a large number of housing units should be handled as follows:

a. In addition to carrying out pertinent directions contained in paragraphs 4 through 12, the commander will also forward two copies of the report of inquiry and all attachments (para 9) directly to The Judge Advocate General, ATTN: Chief, Litigation Division, Department of the Army, Washington, D.C. 20310. That office will review the report and forward a copy, with such comments regarding legal sufficiency as may be

appropriate, to the Attorney General of the United States.

b. Section 813 of the Title VIII authorizes the Department of Justice to bring civil actions in the Federal Courts whenever there is reasonable cause to believe that a person or group of persons is engaged in a "pattern or practice of resistance to the full enjoyment of" fair housing rights, or whenever the denial of rights to any group of persons raises an issue of "general public importance." Department of Justice personnel may wish to confer with commanders or other individuals with responsibilities in connection with off-post housing programs, and may request information and assistance from these officers. There may also be occasions when such personnel will wish to interview military and civilian personnel of the Department of the Army who have encountered housing discrimination. Commanders are to cooperate fully with Department of Justice representatives in this matter.

**14. Discrimination not covered by 42 USC 1982 (R.S. Sec. 1978) or the Civil Rights Act of 1968.**

The fact that the 42 USC 1982 (R.S. Sec. 1978) or the Civil Rights Act of 1968 may not provide a remedy in a given case of discrimination affecting military or civilian personnel or their dependents does not relieve a commander of the responsibility affirmatively to seek equal treatment and opportunity for them, and their dependents, off-post as well as on.

**15. Reports.** The reports required by this regulation are exempt from reports control by paragraph 7-2n and t, A 335-15.

## APPENDIX A

## Extract of Titles VIII and IX of Civil Rights Act of 1968

Public Law 90-284

90th Congress H.R. 2516

April 11, 1968

An Act to prescribe penalties for certain acts of violence or intimidation and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

\* \* \* \* \*

## TITLE VIII—FAIR HOUSING

## Policy

Sec. 801. It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States.

## Definitions

Sec. 802. As used in this title—

(a) "Secretary" means the Secretary of Housing and Urban Development.

(b) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(c) "Family" includes a single individual.

(d) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

(e) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(f) "Discriminatory housing practice" means an act that is unlawful under sections 804, 805, or 806.

(g) "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any of the territories and possessions of the United States.

## Effective Dates of Certain Prohibitions

Sec. 803. (a) Subject to the provisions of subsection (b) and section 807, the prohibitions against discrimination in the sale or rental of housing set forth in section 804 shall apply:

(1) Upon enactment of title, to—

(A) dwellings owned or operated by the Federal Government;

(B) dwellings provided in whole or in part with the aid of loans, advances, grants, or contributions made by the Federal Government, under agreements entered into after November 20, 1962, unless payment due thereon has been made in full prior to the date of enactment of this title;

(C) dwellings provided in whole or in part by loans insured, guaranteed, or otherwise secured by the credit of the Federal Government, under agreements entered into after November 20, 1962, unless payment thereon has been made in full prior to the date of enactment of this title: Provided, That nothing contained in subparagraphs (B) and (C) of this

subsection shall be applicable to dwellings solely by virtue of the fact that they are subject to mortgages held by an FDIC or FSLIC institution; and

(D) dwellings provided by the development or the redevelopment of real property purchased, rented, or otherwise obtained from a State or local public agency receiving Federal financial assistance for slum clearance or urban renewal with respect to such real property under loan or grant contracts entered into after November 20, 1962.

(2) After December 31, 1968, to all dwellings covered by paragraph (1) and to all other dwellings except as exempted by subsection (b).

(b) Nothing in section 804 (other than subsection (c)) shall apply to—

(1) any single-family house sold or rented by an owner: Provided, That such private individual owner does not own more than three single-family houses at any one time: Provided further, That in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period: Provided further, That such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time: Provided further, That after December 31, 1969, the sale or rental of any such single-family house shall be excepted from the application of this title only if such house is sold or rented (A) without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person and (B) without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of section 804(c) of this title; but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or

(2) rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(c) For the purposes of subsection (b), a person shall be deemed to be in the business of selling or renting dwellings if—

(1) he has, within the preceding twelve months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein, or

(2) he has, within the preceding twelve months, participated as agent, other than in the sale of his own personal residence in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein, or

(3) he is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

### Discrimination in the Sale or Rental of Housing

SEC. 804. As made applicable by section 803 and except as exempted by sections 803(b) and 807, it shall be unlawful—

(a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, or national origin.

(b) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, or national origin.

(c) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, or national origin, or an intention to make any such preference, limitation, or discrimination.

(d) To represent to any person because of race, color, religion, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, or national origin.

### Discrimination in the Financing of Housing

SEC. 805. After December 31, 1968, it shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprises whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, or nation origin of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given: *Provided*, That nothing contained in this section shall impair the scope or effectiveness of the exception contained in section 803(b).

### Discrimination in the Provision of Brokerage Services

SEC. 806. After December 31, 1968, it shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, or nation origin.

### Exemption

SEC. 807. Nothing in this title shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated,



supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this title prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

#### Administration

SEC. 808. (a) The authority and responsibility for administering this Act shall be in the Secretary of Housing and Urban Development.

(b) The Department of Housing and Urban Development shall be provided an additional Assistant Secretary. The Department of Housing and Urban Development Act (Public Law 89-174, 79 Stat. 667) is hereby amended by—

(1) striking the word “four” in section 4(a) of said Act (79 Stat. 668; 5 U.S.C. 624b(a)) and substituting therefor “five”; and

(2) striking the word “six,” in section 7 of said Act (79 Stat. 669; 5 U.S.C. 624(c)) and substituting therefor “seven.”

(c) The Secretary may delegate any of his functions, duties, and powers to employees of the Department of Housing and Urban Development or to boards of such employees, including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business or matter under this title. The persons to whom such delegations are made with respect to hearing functions, duties, and powers shall be appointed and shall serve in the Department of Housing and Urban Development in compliance with sections 3105, 3344, 5362, and 7521 of title 5 of the United States Code. Insofar as possible, conciliation meetings shall be held in the cities or other localities where the discriminatory housing practices allegedly occurred. The Secretary shall by rule prescribe such rights of appeal from the decisions of his hearing examiners to other hearing examiners or to other officers in the Department, to boards of officers or to himself, as shall be appropriate and in accordance with law.

(d) All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this title and shall cooperate with the Secretary to further such purposes.

(e) The Secretary of Housing and Urban Development shall—

(1) make studies with respect to the nature and extent of discriminatory housing practices in representative communities, urban, suburban, and rural, throughout the United States;

(2) publish and disseminate reports, recommendations, and information derived from such studies;

(3) cooperate with and render technical assistance to Federal, State, local, and other public or private agencies, organizations, and institutions which are formulating or carrying on programs to prevent or eliminate discriminatory housing practices;

(4) cooperate with and render such technical and other assistance to the Community Relations Service as may be appropriate to further its activities in preventing or eliminating discriminatory housing practices; and

(5) administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of this title.

#### Education and Conciliation

SEC. 809. Immediately after the enactment of this title the Secretary shall commence such educational and conciliatory activities as in his judgment will further the purposes of this title. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this title and his suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement. He may pay per diem, travel, and transportation expenses for persons attending such conferences as provided in section 5703 of title 5 of the United States Code. He shall consult with State and local officials and other interested parties to learn the extent, if any, to which housing discrimination exists in their State or locality, and whether and how State or local enforcement programs might be utilized to combat such discrimination in connection with or in place of, the Secretary's enforcement of this title. The Secretary shall issue reports on such conferences and consultations as he deems appropriate.

#### Enforcement

SEC. 810. (a) Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter "person aggrieved") may file a complaint with the Secretary. Complaints shall be in writing and shall contain such information and be in such form as the Secretary requires. Upon receipt of such a complaint the Secretary shall furnish a copy of the same to the person or persons who allegedly committed or are about to commit the alleged discriminatory housing practice. Within thirty days after receiving a complaint, or within thirty days after the expiration of any period of reference under subsection (c), the Secretary shall investigate the complaint and give notice in writing to the person aggrieved whether he intends to resolve it. If the Secretary decides to resolve the complaint, he shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation, and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this title without the written consent of the persons concerned. Any employee of the Secretary who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or imprisoned not more than one year.

(b) A complaint under subsection (a) shall be filed within one hundred and eighty days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him and with the leave of the Secretary, which shall be

granted whenever it would be reasonable and fair to do so, may amend his answer at any time. Both complaints and answers shall be verified.

(c) Wherever a State or local fair housing law provides rights and remedies for alleged discriminatory housing practices which are substantially equivalent to the rights and remedies provided in this title, the Secretary shall notify the appropriate State or local agency of any complaint filed under this title which appears to constitute a violation of such State or local fair housing law, and the Secretary shall take no further action with respect to such complaint if the appropriate State or local law enforcement official has, within thirty days from the date the alleged offense has been brought to his attention, commenced proceedings in the matter, or, having done so, carries forward such proceedings with reasonable promptness. In no event shall the Secretary take further action unless he certifies that in his judgment, under the circumstances of the particular case, the protection of the rights of the parties or the interests of justice require such action.

(d) If within thirty days after a complaint is filed with the Secretary or within thirty days after expiration of any period of reference under subsection (c), the Secretary has been unable to obtain voluntary compliance with this title, the person aggrieved may, within thirty days thereafter, commence a civil action in any appropriate United States district court, against the respondent named in the complaint, to enforce the rights granted or protected by this title, insofar as such rights relate to the subject of the complaint: Provided, That no such civil action may be brought in any United States district court if the person aggrieved has a judicial remedy under a State or local fair housing law which provides rights and remedies for alleged discriminatory housing practices which are substantially equivalent to the rights and remedies provided in this title. Such actions may be brought without regard to the amount in controversy in any United States district court for the district in which he discriminatory housing practice is alleged to have occurred or be about to occur or in which the respondent resides or transacts business. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may, subject to the provisions of section 812, enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.

(e) In any proceeding brought pursuant to this section, the burden of proof shall be on the complainant.

(f) Whenever an action filed by an individual, in either Federal or State court, pursuant to this section or section 812, shall come to trial, the Secretary shall immediately terminate all efforts to obtain voluntary compliance.

#### Investigations; subpoenas; giving of evidence

Sec. 811. (a) In conducting an investigation the Secretary shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record, and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation: Provided, however, That the Secretary first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. The Secretary may issue subpoenas to compel his access to or the production of such materials, or the appearance of such persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil

action in the United States district court for the district in which the investigation is taking place. The Secretary may administer oaths.

(b) Upon written application to the Secretary, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the Secretary to the same extent and subject to the same limitations as subpoenas issued by the Secretary himself. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his request.

(c) Witnesses summoned by subpoena of the Secretary shall be entitled to the same witness and mileage fees as are witnesses in proceedings in United States district courts. Fees payable to a witness summoned by a subpoena issued at the request of a respondent shall be paid by him.

(d) Within five days after service of a subpoena upon any person, such person may petition the Secretary to revoke or modify the subpoena. The Secretary shall grant the petition if he finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

(e) In case of contumacy or refusal to obey a subpoena, the Secretary or other person at whose request it was issued may petition for its enforcement in the United States district court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(f) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if in his power to do so, in obedience to the subpoena or lawful order of the Secretary, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. Any person who, with intent thereby to mislead the Secretary, shall make or cause to be made any false entry or statement of fact in any report, account, record, or other document submitted to the Secretary pursuant to his subpoena or other order, or shall willfully neglect or fail to make or cause to be made full, true, and correct entries in such reports, accounts, records, or other documents, or shall willfully mutilate, alter, or by any other means falsify any documentary evidence, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(g) The Attorney General shall conduct all litigation in which the Secretary participates as a party or as amicus pursuant to this Act.

#### Enforcement by Private Persons

SEC. 812. (a) The rights granted by sections 803, 804, 805, and 806 may be enforced by civil actions in appropriate United States district courts without regard to the amount in controversy and in appropriate State or local courts of general jurisdiction. A civil action shall be commenced within one hundred and eighty days after the alleged discriminatory housing practice occurred: Provided, however, That the court shall continue such civil case brought pursuant to this section or section 810(d) from time to time before bringing it to trial if the court believes that the conciliation efforts of the Secretary or a State or local agency are likely to result in satisfactory settlement of the discriminatory housing practice complained of in the complaint made to the Secretary or to the local or State agency and which practice forms the basis for the action in court: And provided, however, That any sale, encumbrance,

or rental consummated prior to the issuance of any court order issued under the authority of this Act, and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the existence of the filing of a complaint or civil action under the provisions of this Act shall not be affected.

(b) Upon application by the plaintiff and in such circumstances as the court may deem just, a court of the United States in which a civil action under this section has been brought may appoint an attorney for the plaintiff and may authorize the commencement of a civil action upon proper showing without the payment of fees, costs, or security. A court of a State or subdivision thereof may do likewise to the extent not inconsistent with the law or procedures of the State or subdivision.

(c) The court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order, and may award to the plaintiff actual damages and not more than \$1,000 punitive damages, together with court costs and reasonable attorney fees in the case of a prevailing plaintiff: Provided, That the said plaintiff in the opinion of the court is not financially able to assume said attorney's fees.

#### Enforcement by the Attorney General

SEC. 813. (a) Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this title, or that any group of persons has been denied any of the rights granted by this title and such denial raises an issue of general public importance, he may bring a civil action in any appropriate United States district court by filing with it a complaint setting forth the facts and requesting such preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or persons responsible for such pattern or practice or denial of rights, as he deems necessary to insure the full enjoyment of the rights granted by this title.

#### Expedition of Proceedings

SEC. 814. Any court in which a proceeding is instituted under section 812 or 813 of this title shall assign the case for hearing at the earliest practicable date and cause the case to be in every way expedited.

#### Effect on State Laws

SEC. 815. Nothing in this title shall be construed to invalidate or limit any law of a State or political subdivision of a State, or of any other jurisdiction in which this title shall be effective, that grants, guarantees, or protects the same rights as are granted by this title; but any law of a State, a political subdivision, or other such jurisdiction that purports to require or permit any action that would be a discriminatory housing practice under this title shall to that extent be invalid.

#### Cooperation With State and Local Agencies Adminstrating Fair Housing Laws

SEC. 816. The Secretary may cooperate with State and local agencies charged with the administration of State and local fair housing laws and, with the consent of such agencies, utilize the services of such agencies and their employees and, notwithstanding any other provision of law, may reimburse such

agencies and their employees for services rendered to assist him in carrying out this title. In furtherance of such cooperative efforts, the Secretary may enter into written agreements with such State or local agencies. All agreements and terminations thereof shall be published in the Federal Register.

#### Interference, Coercion, or Intimidation

SEC. 817. It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by section 803, 804, 805, or 806. This section may be enforced by appropriate civil action.

#### Appropriations

SEC. 818. There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this title.

#### Separability of Provisions

SEC. 819. If any provision of this title or the application thereof to any person or circumstances is held invalid, the remainder of the title and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

### TITLE IX

#### Prevention of Intimidation in Fair Housing Cases

SEC. 901. Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with—

(a) any person because of his race, color, religion or national origin and because he is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings; or

(b) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from—

(1) participating, without discrimination on account of race, color, religion or national origin, in any of the activities, services, organizations or facilities described in subsection 901(a); or

(2) affording another person or class of persons opportunity or protection so to participate; or

(c) any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion or national origin, in any of the activities, services, organizations or facilities described in subsection 901(a), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate—

shall be fined not more than \$1,000, or imprisoned not more than one year, or both; and if bodily injury results shall be fined not more than \$10,000, or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life.

**APPENDIX B**  
**CHRONOLOGY SHEET**

Complaint of Unlawful Discrimination

1. Name of Installation
2. Name(s) and Grade(s) of Complainant(s)
3. Type of Housing Facility Involved
4. Efforts to obtain voluntary compliance were (successful) (partially successful) (unsuccessful).
5. Legal review indicates that a remedy may exist under—
6. Chronology of Processing:
  - A. Complaint filed:
  - B. Preliminary Inquiry Completed:
  - C. Voluntary Compliance Efforts Initiated:
  - D. Voluntary Compliance Efforts Completed:
  - E. Further Inquiry Initiated:
  - F. Report of Inquiry Completed:
  - G. Statement of Legal Officer Completed:
  - H. Commander's Memorandum Completed:
  - I. Forwarded:

(Signature block)

30 October 1968

AR 600-4

The proponent agency of this regulation is the Office of the Deputy Chief of Staff for Personnel. Users are invited to send comments and suggested improvements to Deputy Chief of Staff for Personnel, ATTN: DAHC, Department of the Army, Washington, D.C. 20310.

By Order of the Secretary of the Army:

W. C. WESTMORELAND,  
*General, United States Army,  
Chief of Staff.*

Official:

KENNETH G. WICKHAM,  
*Major General, United States Army,  
The Adjutant General.*

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ARMY REGULATION

No. 600-4

HEADQUARTERS  
DEPARTMENT OF THE ARMY  
WASHINGTON, D.C., 30 October 1968.

## PERSONNEL—GENERAL

## FAIR HOUSING ENFORCEMENT PROGRAM OF THE DEPARTMENT OF DEFENSE

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| B. CHRONOLOGY SHEET.....   | ---       | B-1  |

**1. Purpose.** This regulation is in implementation of DOD Instruction. No. 1338.12, dated 8 August 1968, providing command assistance to military personnel and civilian employees of the Department of the Army to secure their rights under the provisions of Title VIII or Title IX of the Civil Rights Act of 1968 (Public Law 90-284, 62 Stat. 696) or 42 USC 1982 (R.S. Sec 1978) which require fair housing practices throughout the nation. For extracts of these Titles, see appendix A. Its purpose is to promote Department of Defense and Department of the Army policy of fostering equal treatment for military and civilian personnel by prescribing policies and procedures for processing complaints to the Department of Housing and Urban Development or to the Department of Justice by military and civilian personnel electing to utilize command assistance in forwarding such complaints.

**2. Applicability.** This regulation applies to military personnel of the Active Army and civilian employees at Department of the Army installations in the United States, its territories and possessions, and the District of Columbia.

**3. Definitions.** For the purpose of this regulation—

*a.* "Unlawful discrimination" means an act in violation of Title VIII or Title IX, Civil Rights Act of 1968 or 42 U.S.C. 1982.

*b.* "Title" means a title of the Civil Rights Act of 1968.

*c.* "Complainant" means a military member or civilian employee of the Department of the Army who submits a complaint of unlawful discrimination.

*d.* "HUD" means the Secretary of Housing and Urban Development.

*e.* "Commander" means the military or civilian head of any installation, organization or agency in the United States, its territories and possessions, and the District of Columbia, under the control of the Department of the Army.

*f.* Other terms in this regulation have the same meaning as those in Public Law 90-284, Civil Rights Act of 1968 (62 Stat. 696).

**4. Information Concerning Legal Rights.** Every commander will—

*a.* Develop an information program to apprise military personnel and civilian employees of the Department of the Army of the rights and remedies provided by 42 USC 1982 (as interpreted by the Supreme Court in *Jones v. Mayer*, 88 S. Ct.

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2186 (1968), or in any subsequent decisions), and by Titles VIII and IX of the Civil Rights Act of 1968.

b. Insure that an office serving the command is available to advise personnel, military and civilian, concerning—

(1) The application of the Titles and 42 USC 1982 in specific situations.

(2) The procedures set forth in this regulation and,

(3) The right of individuals to pursue their remedies through civilian channels without recourse to the procedures prescribed herein, including the right to—

(a) Make a complaint directly to HUD or to the Department of Justice; and

(b) Bring a private civil action in any appropriate local, state, or Federal Court.

#### 5. Information Necessary for Filing Complaints Through Command Channels. a.

*Format.* A complaint to HUD need not be in any special form, but it must—

(1) Be typewritten in at least four copies.

(2) State the facts upon which the allegations of unlawful discrimination (which must have occurred within 180 days of the filing) are based.

(3) State that the provisions of this regulation and the right to submit a complaint directly to HUD have been explained to the complainant.

(4) Be signed by the complainant and notarized.

(5) Be dated.

(6) Contain information in such form prescribed by HUD subsequent to the date of this regulation.

b. *Filing.* The original and at least three copies of a complaint will be filed with the office designated by the commander.

c. *Command Responsibility.* Commanders should make themselves aware of the effective dates of the various provisions of the Civil Rights Act of 1968 and of the coverage limitations of the Titles so that complaints to HUD are not made in cases where the law is clearly not applicable. However, where there is a possibility of coverage, the complaint should be forwarded.

d. *Preliminary Inquiries.* Upon the filing of a complaint, officials designated by the commander of the installation concerned will make a preliminary inquiry. The inquiry may be informal in

nature, but will be sufficiently detailed to indicate whether unlawful discrimination exists.

e. *Voluntary Assurances.* If the preliminary inquiry supports the complainant's charge of unlawful discrimination, the commander or his representative will seek appropriate relief for the complainant and written assurance from the owner or operator involved that future practices will provide for nondiscriminatory treatment of military personnel, civilian employees and their dependents.

f. *Action Following Assurances.* If satisfactory assurances with respect to future practices are obtained, the commander will promptly notify the complainant and forward a report through channels to the Deputy Chief of Staff for Personnel, ATTN: DAHC, Department of the Army, Washington, D.C. 20310, for transmission to the Assistant Secretary of Defense (Manpower and Reserve Affairs). The report will briefly summarize the practices giving rise to the complaint, the commander's efforts to obtain assurances concerning future practices, and the terms of the assurances provided.

g. *Action if Assurance Refused.* If the commander is unable to obtain a satisfactory assurance, including appropriate relief for the complainant, he will complete the procedures prescribed in paragraphs 6 through 12.

#### 6. Inquiry.

a. *Scope.* In every case not resolved by assurances, there will be a further inquiry in accordance with b through d below. (Normally this inquiry will be made by the person who made the preliminary inquiry.)

b. *Evidence.*

(1) A State will be obtained from every person signing the complaint. Additional statements may be—

(a) Solicited from other military and civilian personnel, and their dependents, having actual knowledge of the practices of the facility concerned; and

(b) Received but not solicited from any other person who volunteers to provide information. (The complainant may solicit statements from any source.)

(2) In no instance will authority, implicit or explicit, to require the giving of such additional statements be asserted or suggested.

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